

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COMMANDER EMILY SHILLING; *et al.*,

Plaintiffs,

v.

DONALD J TRUMP, in his official
capacity as President of the United States;
et al.,

Defendants.

No. 2:25-cv-00241-BHS

**UNOPPOSED MOTION FOR
LEAVE TO FILE BRIEF OF
AMICI CURIAE BY THE STATES
OF WASHINGTON, VERMONT,
ARIZONA, CALIFORNIA,
COLORADO, CONNECTICUT,
DELAWARE, HAWAII,
ILLINOIS, MAINE, MARYLAND,
MASSACHUSETTS, MICHIGAN,
MINNESOTA, NEVADA, NEW
JERSEY, NEW YORK, NORTH
CAROLINA, OREGON, RHODE
ISLAND, AND WISCONSIN IN
SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY
INJUNCTION**

NOTE ON MOTION CALENDAR:
February 26, 2025

UNOPPOSED MOTION FOR LEAVE
TO FILE BRIEF OF AMICI STATES IN
SUPPORT OF PLAINTIFFS' MOTION
FOR A PRELIMINARY INJUNCTION
No. 2:25-cv-00241-BHS

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
(206) 464-7744

I. INTRODUCTION

The States of Washington, Vermont, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, Oregon, Rhode Island, and Wisconsin (“Amici States”) respectfully request leave to file a brief as *amici curiae* in the above-captioned action in support of Plaintiffs’ pending Motion for Preliminary Injunction. A copy of the proposed brief is attached to this Motion. Amici States are moving for leave to file their brief seven days after Plaintiffs filed their Motion for Preliminary Injunction, which will not interfere with the Court’s briefing schedule. Counsel for Amici States has conferred with the parties’ counsel, and both Plaintiffs and Defendants consent to the filing of the brief.

II. ARGUMENT

Plaintiffs seek a preliminary injunction that enjoins Defendants from enforcing Executive Order 14,183 (“Prioritizing Military Excellence and Readiness”), which bars transgender Americans from serving in the military, “as to Plaintiffs and other current and aspiring transgender servicemembers.” Dkt. # 23 at p. 10. Amici States seek leave to file a brief highlighting the importance of the National Guard to the States’ security and disaster preparedness, as well as Amici States’ positive experience allowing transgender people to participate fully in society, including in the National Guard.

While no rule specifically addresses amicus participation, district courts have broad discretion to grant leave to participate as *amicus curiae*. *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982). This discretion is liberally applied when the legal issues in a case “have potential ramifications beyond the parties directly involved.” *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005). “An amicus brief should normally be allowed when . . . the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Cnty. Ass’n for Restoration of the Env’t (CARE) v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999) (citing

1 *Miller-Wohl Co., Inc. v. Comm'r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204
 2 (9th Cir. 1982)); *Int'l Partners for Ethical Care Inc. v. Inslee*, No. 3:23-CV-05736-DGE, 2024
 3 WL 416859, at *1 (W.D. Wash. Feb. 5, 2024).

4 Amici States have unique information and perspectives that will assist the Court in
 5 evaluating Plaintiffs' Motion for Preliminary Injunction. Amici States share control of the
 6 National Guard with the federal government. U.S. Const. art. I, § 8, cl. 15-16; 10 U.S.C. § 12401;
 7 32 U.S.C. § 314. The National Guards of Amici States respond to natural disasters and assist
 8 Amici States with cybersecurity during elections, among other functions. Excluding transgender
 9 people from National Guard service will affect retention and recruitment efforts as well as
 10 readiness. And Amici States have enacted statutes barring discrimination based on gender
 11 identity in areas such as education, employment, public accommodations, and housing. *E.g.*,
 12 Wash. Rev. Code. §§ 28A.642.010, 49.60.030; Vt. Stat. Ann. tit. 9, §§ 4502, 4503; *id.* tit. 21
 13 § 495. Amici States have a strong interest in enforcing their civil legal codes and ensuring
 14 National Guard readiness. Amici States submit that their perspectives will assist the Court in
 15 assessing Defendants' attempt to bar transgender people from serving in the military.

16 III. TIMELINESS

17 Amici States seek leave to file their brief one week after Plaintiffs filed their Motion for
 18 Preliminary Injunction. While the Federal Rules of Civil Procedure and the local rules do not
 19 specify timeliness for *amicus* briefs, the Federal Rules of Appellate Procedure require filing
 20 within seven days after the principal brief of the party being supported. Fed. R. App. P. 29(a)(6).
 21 Other judges in this District have cited that timeline with approval. *See, e.g., Wagafe v. Biden*,
 22 No. 17-cv-00094-LK, 2022 WL 457983, at *2 (W.D. Wash. Feb. 15, 2022); *Skokomish Indian*
 23 *Tribe v. Goldmark*, No. C13-5071JLR, 2013 WL 5720053, at *2 (W.D. Wash. Oct. 21, 2013).
 24 Amici States are filing consistent with this persuasive authority.

IV. CONCLUSION

The Court should grant Amici States leave to file the *amici curiae* brief that accompanies this Motion.

DATED this 26th day of February, 2025.

Respectfully submitted,

NICHOLAS W. BROWN
Attorney General of Washington



COLLEEN MELODY, WSBA No. 42275
Civil Rights Division Chief
CASSANDRA BAKER, WSBA No. 60498
Assistant Attorneys General
Wing Luke Civil Rights Division
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
(206) 464-7744
colleen.melody@atg.wa.gov
cassandra.baker@atg.wa.gov

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

DATED this 26th day of February, 2025.



LOGAN YOUNG
Paralegal